



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

REPLY TO
ATTENTION OF

CECW-P

JAN 30 2015

MEMORANDUM FOR Commanders, Major Subordinate Commands

SUBJECT: Implementation Guidance for Section 1010 of the Water Resources Reform and Development Act of 2014 (WRRDA 2014) – Determination of Project Completion

1. Section 1010 of WRRDA 2014 provides that the Secretary shall notify the applicable non-federal sponsor when construction of a water resources project, or a functional portion thereof, is completed so that the non-federal sponsor may commence its responsibilities, as applicable, for operation and maintenance. It also provides that not later than 7 days after receiving the notification, the non-federal sponsor may appeal, in writing, the determination of completion and must include a detailed explanation of the basis for questioning the determination. It further provides that upon notification of submission of an appeal, the Secretary shall contract with one or more independent non-federal experts for an evaluation of whether the project, or functional portion thereof, is complete, with the evaluation completed no later than 180 days after receipt of the appeal. A copy of Section 1010 is enclosed.
2. Construction of a water resources project, or a functional element thereof, is complete when physical construction is complete. Completion of physical construction does not include completion of any approved project monitoring, adaptive management, periodic renourishment, future levee raises or any other project aspect occurring after initial physical construction is complete. Any approved project monitoring, adaptive management, periodic renourishment, or future levee raises will be undertaken as defined in the project report.
3. As provided in the executed Project Partnership Agreement, when the District Commander determines that a project, or a functional portion thereof, is complete, the District Commander shall notify the non-federal sponsor of that determination in writing. The written notification, which will also address the appeals process, should be delivered in person, with receipt acknowledged in writing, or by mail, using return receipt service. Any appeal of that determination, with a detailed explanation of the basis for questioning the determination, must be provided by the non-federal sponsor no later than 7 calendar days after receipt of the notification of completion.
4. Upon receipt of a timely appeal, the district shall contract for an evaluation of whether the project, or functional portion thereof, is complete with one or more

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independent experts. HQUSACE Contracting will expeditiously develop the most advantageous contracting vehicle for use in these evaluations. The scope of work will include identifying the independent experts, using the criteria in the National Academies of Science's May 2003 "Policy and Procedures on Committee Composition and Balance and Conflicts of Interest for Committees Used in the Development of Reports," and engaging one or more experts to conduct the evaluation.

5. These independent evaluations of the District Commander's determination shall be completed no later than 180 calendar days of receipt of an appeal from the non-federal sponsor. The cost to complete the independent evaluations will be treated as a project cost that is cost shared with the non-federal sponsor under the Project Partnership Agreement.

6. From the notification of completion from the District Commander, through the period of any appeal and evaluation, the non-federal sponsor remains responsible for performance of operation and maintenance as required by the executed Project Partnership Agreement.

7. The District Commander shall consider carefully the independent expert evaluation, assess whether a change in the initial construction completion determination is warranted and provide a response back to the non-federal sponsor appeal within 30 days of receipt of the independent evaluation. The District Commander retains the ultimate responsibility for determining whether and when a project, or functional portion thereof, has been completed.



STEVEN L. STOCKTON, P.E.
Director of Civil Works

Encl

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SEC. 1010. DETERMINATION OF PROJECT COMPLETION.

(a) IN GENERAL.-The Secretary shall notify the applicable non-Federal interest when construction of a water resources project or a functional portion of the project is completed so the non-Federal interest may commence responsibilities, as applicable, for operating and maintaining the project.

(b) NON-FEDERAL INTEREST APPEAL OF DETERMINATION.-

(1) IN GENERAL.-Not later than 7 days after receiving a notification under subsection (a), the non-Federal interest may appeal the completion determination of the Secretary in writing with a detailed explanation of the basis for questioning the completeness of the project or functional portion of the project.

(2) INDEPENDENT REVIEW.-

(A) IN GENERAL.-On notification that a non-Federal interest has submitted an appeal under paragraph (1), the Secretary shall contract with 1 or more independent, non-Federal experts to evaluate whether the applicable water resources project or functional portion of the project is complete.

(B) TIMELINE.-An independent review carried out under subparagraph (A) shall be completed not later than 180 days after the date on which the Secretary receives an appeal from a non-Federal interest under paragraph (1).